

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

SYLVIA POU O/B/O K. POU

PLAINTIFF

V. CAUSE NO. 4:10-CV-00132-CWR-FKB

**MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL
SECURITY**

DEFENDANT

ORDER ADOPTING REPORT AND RECOMMENDATION

The above-styled matter is before the Court on the Report and Recommendation¹ of Magistrate Judge F. Keith Ball, which was filed on July 28, 2011, and drew timely objections from neither party.

This case began on August 5, 2010, when counsel for the plaintiff filed the Complaint.² On March 31, 2011, the plaintiff's attorney moved for leave to withdraw from the case,³ and Judge Ball granted the request on April 1, 2011.⁴ Additionally, Judge Ball directed the plaintiff to retain counsel by May 2, 2011, or she would be considered to be proceeding *pro se*. Judge Ball also instructed the plaintiff to file her dispositive motion and brief no later than May 9, 2011.

When that date came and went, the defendant moved for involuntary dismissal for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.⁵ Judge Ball ordered

¹ Report and Recommendation [Docket No. 24] (hereinafter "R&R").

² Complaint [Docket No. 1].

³ Motion to Withdraw as Attorney [Docket No. 18].

⁴ Order [Docket No. 19].

⁵ Defendant's Motion to Dismiss for Failure to Prosecute [Docket No. 21].

the plaintiff to show cause for the omission,⁶ to which the plaintiff responded that she had been ill and asked for additional time to retain a new attorney.⁷

Soon thereafter, Judge Ball tendered his Report and Recommendation, wherein he “d[id] not consider Plaintiff’s Response to the Show Cause Order adequate”⁸ However, in light of the fact that “the suit concerns a claim on behalf of a minor child, [Judge Ball] recommend[ed] that the Motion to Dismiss be granted without further notice unless a new attorney for Plaintiff has entered an appearance and filed a dispositive motion by October 1, 2011.”⁹

Because no objections have been registered to Judge Ball’s recommendation, this Court adopts the Report and Recommendation in full and incorporates the same herein by reference.

If no attorney enters an appearance on the plaintiff’s behalf on or before October 1, 2011, then this Court will prepare to exercise its inherent authority and that instilled by Rule 41(b) to dismiss the case for failure to prosecute. The plaintiff is strongly urged to retain, hire, and/or consult with an attorney well in advance of October 1, 2011, in order to protect the rights of her minor child.

SO ORDERED this Seventh day of September 2011.

/s/ Carlton W. Reeves
Hon. Carlton W. Reeves
United States District Court Judge

⁶ Show Cause Order [Docket No. 22].

⁷ Letter from plaintiff [Docket No. 23].

⁸ R&R at 2.

⁹ R&R at 2.